

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MATTHEW PETERSON, et al.,

Plaintiffs,

v.

THOMSON INTERNATIONAL, INC.,

Defendant.

Case No. 1:22-cv-00701-JLT-CDB

ORDER GRANTING ATTORNEY LINDSAY  
LIEN AMIN'S MOTION TO WITHDRAW AS  
FOR PLAINTIFF

(Doc. 60)

This matter is before the Court on the motion of Lindsay Lien Amin on behalf of herself and Eric Gruber (local counsel) to withdraw as counsel of record for Plaintiff Carson Brenda, initially filed January 23, 2024, and supplemented on January 25, 2024. (Docs. 58, 60). The Court convened for an in-person and Zoom videoconference hearing on the motion on March 4, 2024. Counsel Amin and counsel for Defendant appeared via Zoom videoconference; Plaintiff Brenda did not appear. For the reasons set forth below, counsel Amin's motion to withdraw will be granted.

**Background**

Plaintiff Carson Brenda is one of eight Plaintiffs who raise claims against Defendant Thomson International Inc., in a complaint filed on June 10, 2022. (Doc. 1). Brenda's claims stem from alleged illness he suffered after consuming onions sourced by Defendant in or around July 1, 2022. *Id.* ¶¶49-56.

1 **Legal Standard**

2       The decision to grant or deny an attorney's motion to withdraw is ultimately committed to the  
3 discretion of the trial court. *United States v. Carter*, 560 F.3d 1107, 1113 (9th Cir. 2009). "In ruling  
4 on a motion to withdraw as counsel, courts consider (1) the reasons why withdrawal is sought; (2) the  
5 prejudice withdrawal may cause to other litigants; (3) the harm withdrawal might cause to the  
6 administration of justice; and (4) the degree to which withdrawal will delay the resolution of the case."  
7 *Beard v. Shuttermart of Cal., Inc.*, No. 3:07-cv-00594-WQH-NLS, 2008 WL 410694, at \*2 (S.D. Cal.  
8 Feb. 13, 2008) (citing *Nat'l Career Coll., Inc. v. Spellings*, No. 07-cv-00075-HG-LK, 2007 WL  
9 2048776, at \*2 (D. Haw. July 11, 2007)); see *CE Res., Inc. v. Magellan Grp., LLC*, No. 2:08-cv-  
10 02999-MCE-KJM, 2009 WL 3367489, at \*2 (E.D. Cal. Oct. 14, 2009) (noting that "[u]ltimately, the  
11 court's ruling must involve a balancing of the equities").

12       In addition to the above factors, withdrawal of counsel is governed by the Local Rules. Local  
13 Rule 182(d) provides that if withdrawal would leave a client without counsel, an attorney must file a  
14 formal motion and provide the client and all other parties with notice of the motion to withdraw. *Id.*  
15 The attorney must also submit an affidavit providing the current or last known address of the client  
16 and describing the efforts made to notify the client of the motion to withdraw. *Id.*

17       Further, "[w]ithdrawal as attorney is governed by the Rules of Professional Conduct of the  
18 State Bar of California, and the attorney shall conform to the requirements of those Rules." *Id.* The  
19 California Rules of Professional Conduct provide that if the rules of a court require permission for an  
20 attorney to withdraw, the attorney may not withdraw from employment in a proceeding without the  
21 permission of such court. Cal. R. Prof. Conduct 1.16(c). Also, counsel must take reasonable steps to  
22 avoid prejudicing the rights of the client, including providing notice, allowing time for the client to  
23 employ other counsel, and complying with applicable laws and rules. Cal. R. Prof. Conduct 1.6(d).  
24 Grounds for permissive withdrawal exist when "the client by other conduct renders it unreasonably  
25 difficult for the lawyer to carry out the representation effectively." Cal. R. Prof. Conduct 1.6(b)(4).

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1 **Discussion**

2 Counsel Amin attests that Plaintiff Brenda has failed to communicate with her about his  
3 pending claims. According to counsel Amin, Plaintiff Brenda's conduct has rendered it impossible for  
4 counsel to respond to reasonable discovery requests or otherwise comply with his discovery  
5 obligations. (Doc. 60 p. 2). Counsel Amin further attests that Plaintiff Brenda has not responded to  
6 her communications since June 2023. Counsel attempted to contact Plaintiff Brenda by phone, text  
7 message, email, and mail, without a response. Counsel specifically attests that she attempted to contact  
8 Plaintiff Brenda on September 13, October 10, October 27, and November 20, 2023, through either  
9 text messages or emails. (Doc. 60-1 p. 2). Counsel confirmed during the motion hearing that, up until  
10 June 2023, she had successfully communicated with Plaintiff Brenda using all three of those  
11 communication mediums (phone, text message, and email).

12 On January 5, 2024, counsel Amin contacted Plaintiff Brenda by email, mail, and text message  
13 informing him that she intended to discontinue representation unless he responded. *Id.* ¶8. She also  
14 attempted to call Plaintiff Brenda on January 16, 2024, but he did not answer, and his voicemail was  
15 full. During the motion hearing, counsel Amin represented that the voicemail message identified  
16 Plaintiff Brenda. Counsel also attempted to contact Plaintiff Brenda by text message. Counsel Lien  
17 Amin attempted to contact Plaintiff Brenda through calling or texting him her intention to withdraw  
18 but received no answer. *Id.* ¶9.

19 Finally, on January 22, 2024, counsel Amin sent Plaintiff Brenda a letter through U.S. postal  
20 mail as well as an email explaining her notice of motion to withdraw as counsel and informing him of  
21 the consequences of such a motion. *Id.* ¶10. She sent another notice following the Court's denial of  
22 her initial motion to withdraw. *Id.* ¶12. During the motion hearing, counsel Amin confirmed that none  
23 of the correspondence she has transmitted to Plaintiff Brenda via U.S. postal mail has been returned  
24 "undeliverable."

25 The Court finds counsel Amin has provided good cause to withdraw under the California Rules  
26 of Professional Conduct as it appears a breakdown in the attorney-client relationship has occurred  
27 despite counsel Amin's attempts to engage with Plaintiff Brenda over an extended period of time  
28 (between June 2023 and the present). Further, counsel Amin has complied with the notice

1 requirements in Local Rule 182(d). The Court also notes granting withdrawal will not cause any  
2 prejudice to any litigant, to the administration of justice, or delay the resolution of the case. Among  
3 other things, the Court notes that Defendant has not opposed the pending motion, or otherwise asserted  
4 that it will suffer any prejudice from the Court's granting of the pending motion.

5 Because Plaintiff Brenda has not filed a substitution of attorney, the Court will direct him to  
6 inform the Court in writing within fourteen (14) days of the service of this order whether he intends to  
7 continue prosecuting this action and, if so, whether he intends to obtain substitute counsel or proceed  
8 pro se. Any failure by Plaintiff to respond to the Court's order in this regard will result in the  
9 dismissal of this action for failure to prosecute and failure to comply with the Court's order.

10 **Conclusion**

11 For the reasons set forth above:

- 12 1. Lindsay Lien Amin's motion to withdraw as counsel (Doc. 60) is GRANTED;
- 13 2. The Clerk of the Court is directed to terminate Lindsay Lien Amin and Eric R.  
14 Gruber as the counsel of record for Plaintiff Carson Brenda.
- 15 3. Counsel Lien Amin shall comply with all obligations under Rule 1.16(e) of the  
16 California Rules of Professional Conduct regarding the release of a client's papers  
17 and property and the return of unearned fees; and
- 18 4. Plaintiff is substituted in pro se and is directed to comply with all hearing dates and  
19 the rules of the Court;
- 20 5. The Clerk of the Court is directed to enter the following contact information as  
21 Plaintiff's address of record:  
22 Carson W. Brenda  
23 19448 Brookside Way  
24 Bend, OR 97702
- 25 6. The Clerk of the Court is directed to serve this order on Plaintiff Brenda by mail;
- 26 7. Plaintiff Brenda is directed to inform the court within fourteen (14) days of service  
27 of this order whether he intends to continue prosecuting this action and, if so,  
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1 whether he intends to obtain new counsel or represent himself. Any failure by  
2 Plaintiff to respond to the court's order in this regard will result in the dismissal of  
3 this action for failure to prosecute and failure to comply with the court's order.  
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5 IT IS SO ORDERED.

6 Dated: March 8, 2024

  
UNITED STATES MAGISTRATE JUDGE